



Billing Code: 4520-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by MSHA's Office of Standards, Regulations, and Variances on or before [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.
2. Facsimile: 202-693-9441.
3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations, and Variances, 201 12th Street South, Suite 4E401, Arlington, Virginia 22202-5452,

Attention: Sheila McConnell, Director, Office of Standards, Regulations, and Variances. Persons delivering documents are required to check in at the receptionist's desk in Suite 4E401. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations, and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M-2016-027-C.

Petitioner: Oak Gove Resources, LLC, 8360 Taylors Ferry Road, Hueytown, Alabama 35023.

Mine: Oak Grove Mine, MSHA I.D. No. 01-00851, located in Jefferson County, Alabama.

Regulation Affected: 30 CFR 75.364(b)(2) (Weekly examination).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance for weekly examinations of the four-part overcast bank located in the Main North entries at spad number 16+20, due to deteriorating roof and rib conditions that have made traveling the area unsafe and conditions in the area are impractical and unsafe to rehabilitate. The petitioner proposes to have a certified person take air quantity and quality measurements at monitoring points 71A and 71C at entrance and exist of overcast bank will afford the mines the same protection as the existing standard. The petitioner asserts that the existing standard 30 CFR 75.364(b)(2) undermines the safety of the miners by placing them in an area with deteriorated roof and rib conditions. The petitioner states that the following terms and conditions will be followed:

(1) Monitoring stations 71A and 71C will allow effective evaluation of airflow across overcast used to ventilate old works.

(a) Monitoring station 71A will evaluate air entering overcast bank.

(b) Monitoring station 71C will evaluate air as it leaves overcast bank.

(2) Signs showing safe travel route to each monitoring station will be posed in adjacent entries. Monitoring stations and routes will be kept free of water accumulations.

(3) A certified person will conduct weekly evaluations at each of the monitoring stations. Evaluations will include quantity and quality of air entering or exiting overcast bank. Measurements will be made using MSHA-approved and calibrated hand-held multi gas detectors to check for methane, and oxygen concentrations. Appropriate calibrated anemometers will be used to check airflow and volume.

(4) A diagram of normal air flow will be posted at 71A and 71C monitoring points and maintained legible. Any changes will be reported to the Mine Foreman for immediate investigation.

(5) At each monitoring station, a date board will be provided where date, time, and examiner's initials will be recorded along with measured quantity and quality of air. Results including conditions of accessible controls will be recorded in a book kept on the surface and made available to all interested parties.

(6) All monitoring stations and approaches will at all times be maintained in a safe condition. The roof will be supported by bolts and other means to prevent deterioration in the area of monitoring points.

(7) Monitoring stations locations will be shown on an annually submitted mine ventilation map. Monitoring stations will not be moved to another location without prior approval by the District Manager as part of the ventilation plan for the mine.

(8) For added safety additional roof support will be added under overcasts that belt and track travel through.

(9) Prior to implementation of this modification, all mine personnel will be instructed that except along designated routes no travel into the petitioned area will be permitted and all approaches will be fenced or barricaded with “DO NOT ENTER” warning signs.

(10) The overcast area is not being used for work or travel, and, upon information and belief, no one has performed work, examinations, inspections, or otherwise traveled in the overcast area in many years.

(11) Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for the approved part 48 training plan to the District Manager. The revisions will include initial and refresher training regarding compliance with the PDO.

(12) Use of the proposed alternative method described in this petition will prevent miners from being exposed to unnecessary hazards, and will increase the measure of protection to the miners.

The petitioner asserts that application of the existing standard to the particular overcast area will result in a diminution of safety to the miners and that the proposed alternative method will at all times guarantee no less than the same measure of protection to the miners as would be provided by the existing standard.

Sheila McConnell
Director
Office of Standards, Regulations, and Variances

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